

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**BOARD OF ZONING ADJUSTMENT**



**Application No. 16245 of the William Smith Company**, pursuant to 11 DCMR 3103.2, for a variance from the off-street parking requirements (Subsection 2101.1) for church seating of 100 in the basement and first floor of a structure in a C-2-A District at 5517 Colorado Avenue, NW (Square 2801, Lot 94).

**HEARING DATE:** June 18, 1997

**DECISION DATE:** July 16, 1997

**ORDER**

**PROCEDURAL MATTER:**

The William C. Smith Company is the owner of the property that this is the subject of this application and Mr. Raymond Anselmo is the general partner in the partnership that holds the property. The tenant, Bishop Norman N. Barbee, is the pastor of the Michael's Temple Pentecostal Church of God, Inc. and utilizes the property to conduct church services.

**SUMMARY OF EVIDENCE OF THE RECORD:**

1. The property, which is the subject of this application, is located at 5517 Colorado Avenue, NW on the northeastern corner of the intersection of Kennedy Street and Colorado Avenue, NW.
2. The site is trapezoidal in shape and consists of one of lot (Lot 94) containing approximately 2,963 square feet of land. It has a width of 27 feet along its Colorado Avenue frontage, a depth of 59.67 feet along the northeast property line, 58.10 feet along the southeast property line, and 85.70 feet along the southwest property line. The site is developed with a one-story commercial type structure, first occupied in 1930, that occupies 100 percent of the property.
3. The C-2-A District permits matter-of-right low density development, including office, retail and residential uses, to a maximum floor area ratio (FAR) of 2.5, with non-residential uses limited to 1.5 FAR, a maximum height of 50 feet, and a maximum lot occupancy of 60 percent for residential uses. A church is a permitted use in a C-2-A District.

4. The applicant is requesting a variance from the required number of off-street parking spaces for a church.
5. At the public hearing, Mr. Raymond Anselmo, the applicant's representative, testified that Bishop Barbee has operated a church at the site for nine years, three nights a week. The church has a membership of 80 with the average attendance being 50, and the tenant has a lease on a corner property close to the church for 17 parking spaces that satisfies the zoning regulations of one space for every 10 seats.
6. There were no other letters or testimony presented in support of the application.
7. Advisory Neighborhood Commission (ANC) 4A by resolution dated May 30, 1997 and by testimony presented at the public hearing voted, unanimously, to oppose the variance request. Specific issues addressed by the ANC were: the site could not accommodate any off-street parking; there is limited on-street parking in the general vicinity of the site; the large number of parishioners and size of the building; the number of churches in the immediate vicinity of the site that do not have on-site parking; most parishioners would be driving to the site; the applicant's failure to apply for a Certificate of Occupancy until a citation was issued; and, the proposed use would increase traffic congestion in the vicinity of the site.
8. Single Member District ANC 4A01 presented testimony at the public hearing in opposition to the application.
9. The Longfellow Cooperative Association (located adjacent to the subject building) presented testimony at the public hearing in opposition to the application. (The apartment complex contains 69 owner/occupied units.) The representative of the Cooperative indicated that the area is seriously congested with traffic and removal of any parking space would only exacerbate the problem. The area around the church includes commercial businesses that have short-term parking needs. Also, a parking deficit for the commercial businesses would be created if the church were to use the parking spaces in the neighborhood.
10. The Office of Zoning (OZ) by report dated June 11, 1997 and by testimony presented at the hearing recommended approval of the application. The report indicated that OZ is of the opinion that the applicant has met the burden of proof relative to the zoning relief being sought in this case. Overall, the use of the property as a church, in OZ's opinion, would be an appropriate use.
11. At the conclusion of the hearing, the Board requested that the applicant submit a site plan and layout of the parking lot they proposed to use off-site, as well as a long-term lease agreement with the owners of the proposed parking lot.

The applicant did provide a site plan for 17 parking at 5427 14<sup>th</sup> Street, NW and also a copy of the Monthly Rental Lease Agreement. The applicant, due to illness, requested a waiver to submit the materials late. The Board approved the request.

ANC 4C filed a letter in opposition to the submissions. The ANC indicated that the submitted lease is for month to month, no security deposit was required, the lease was terminable without recourse by either the landlord or tenant with 30 days notice, and there was no long-term element in the lease agreement.

### **FINDINGS OF FACT:**

Based on the evidence of the record and the testimony presented at the hearing, the Board finds as follows:

1. The report and testimony of ANC 4C were compelling and the Board is required to give "great weight" to the written report of ANC 4A. The residents of the neighborhood indicated that the area is heavily congested with vehicular traffic, that on-street parking is limited, that there are a large number of churches in the immediate vicinity of the site requiring parking, and that the proposed use would only exacerbate an already difficult parking situation. The Board also made note of the temporary nature of the lease agreement for the church to use a nearby parking lot.
2. The subject building occupies 100 percent of the property and therefore on-site parking cannot be provided. The site, however, can be used for commercial uses as identified in the Zoning Regulations. The Applicant's proposed use of the site to house 100 parishioners, thus requiring 10 off-street parking spaces, would cause substantial detriment to the public good and would substantially impair the intent, purpose and integrity of the Zoning Regulations and Map.
3. The site is not unique. There are no special characteristics existing at the site to differentiate it from nearby properties.
4. The site was previously used as a laundromat. At the time the building was converted to a church, the required Certificate of Occupancy had not been obtained. The testimony indicated that the church used the site for over nine years without the proper authorization to do so. The use of the building to house a church was brought to the Board for review, only after a citation was issued.

### **CONCLUSIONS OF LAW AND OPINION:**

Based on the foregoing findings of fact and evidence of the record, the Board concludes that the William C. Smith Co., pursuant to 11 DCMR 3103.2 is seeking the following: an area variance from the off-street parking requirements (Subsection 2101.1) for a church

seating 100 in the basement and first floor of a structure in a C-2-A District at the premise address of 5517 Colorado Avenue, NW (Square 2801, Lot 94).

The granting of the variance requires a showing through substantial evidence of practical difficulty upon the owner arising out of some unique or exceptional condition of the property such as exceptional narrowness, shallowness, shape or topographical conditions. The Board concludes that the property is not exceptional because of size, shape, or location. The granting of the variance also requires a showing of substantial evidence that the church will be in harmony with the general purpose and intent of the Zoning Regulations and Map and will not tend to affect adversely the use of neighboring property.

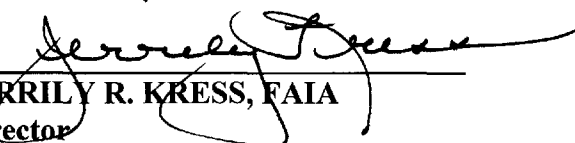
For the requested variance, the Board concludes that the applicant has not met the burden of proof. The Board is of the opinion that granting the area variance will be a substantial detriment to the public good, and will substantially impair the intent, purpose and integrity of the zone plan for the C-2-A District and will have an adverse affect on the neighboring property.

The Board accorded ANC 4A's testimony the great weight to which they are entitled.

In light of the foregoing analysis, the Board hereby **ORDERS** that the application be **DENIED**.

**VOTE:**           **3-0-2** (Sheila Cross Reid, John G. Parsons and Laura M. Richards to deny; Susan Morgan Hinton, not present, not voting, not having heard the case, Betty King, not voting, not having heard the case).

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

ATTESTED BY:   
JERRILY R. KRESS, FAIA  
Director

**FINAL DATE OF ORDER:** AUG 22 2000

NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBSECTION 3125.6, AND UPON ITS FILING IN THE RECORD AND SERVICE ON THE PARTIES.

BZA16245/sdb

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



**BZA APPLICATION NO. 16245**

As the Director of the Office of Zoning, I hereby certify and attest that on AUG 22 2000 a copy of the order entered on that date in this matter was mailed first class, postage prepaid, to each party who appeared and participated in the public hearing concerning the matter, and who is listed below:

Bishop Norman N. Barbee  
Michael's Temple Pentecostal Church  
5517 Colorado Avenue N.W.  
Washington, D.C. 20011

Joseph H. Hairston, Chairperson  
Advisory Neighborhood Commission 4A  
7600 Georgia Avenue, N.W.  
Washington, D.C. 20012

Raymond J. Anselmo Limited Partnership  
The Anthony J. Anselmo Limited Partnership  
3611 Cardiff Road  
Chevy Chase, Maryland 20815-5945

Michael Johnson, Zoning Administrator  
Building & Land Regulation Administration  
Dept. of Consumer and Regulatory Affairs  
941 North Capitol Street, NE, Suite 2000  
Washington, DC 20009

ATTESTED BY:

  
JERRILY R. KRESS, FAIA  
Director